

Report to:	EXECUTIVE CABINET
Date:	24 March 2021
Executive Member:	Councillor Allison Gwynne, Executive Member (Neighbourhoods, Community Safety and Environment)
Reporting Officer:	Debbie Watson – Assistant Director of Population Health Tom Wilkinson, Assistant Director of Finance
Subject:	IMPACT OF COVID - FUTURE DELIVERY AND RESOURCING OF SPORT AND LEISURE – 2021/22 FINANCIAL YEAR
Report Summary:	<p>The report updates on the plans for short term financial sustainability of the Council's Sport and Leisure facilities provided by Active Tameside, as the sector recovers from the worldwide pandemic and national lockdown measures.</p> <p>It outlines the short term financial support required to allow key sports and leisure facilities to be successfully re-opened to the local community and Tameside residents.</p> <p>The Covid Pandemic has had a huge impact on the finances of the Council's leisure provider, Active Tameside and is likely to continue throughout 2021/22 as the nation recovers from the pandemic.</p> <p>The pandemic has proven that those who are fit and healthy have been least affected by the impact of catching the virus. A sustainable leisure offer for Council residents is key to reducing health inequalities and improving the health resilience of the borough's population.</p> <p>A separate Sport and Leisure review is being undertaken across the leisure estate over the next six months that sets out the long term requirements of the Council to ensure the long term future sustainability of provision for our residents. This is currently being consulted on and was reported to Executive Cabinet in February 2021.</p>
Recommendations:	<p>It is recommended that Executive Cabinet:</p> <ol style="list-style-type: none"> 1. Approve a supplementary management fee of £0.77m to Active Tameside for the 2021/22 financial year, to be drawn down on an open book basis, if, as and when the cash is required and that this supplementary management fee is repayable if any additional government support is received and/or there are additional funds received by Active Tameside by way of insurance settlements. 2. Agree that any decision around the treatment of the prudential borrowing debt will be subject to an additional report once all other funding routes have been exhausted and the broader insurance claim has been settled. 3. Agree that any further support by way of the 2022/23 management fee is agreed as part of the 2022/23 budget process. 4. Agree that a contingency of £0.5m is set aside from carried forward Covid grants as support in case of the delayed relaxation of restrictions or subsequent additional national restrictions being imposed by the Government.

Corporate Plan:

Living well

Policy Implications:

Local authorities have a central role to play when it comes to the provision of community sport and recreation facilities and are responsible for the health outcomes for their populations – specified in the as specified in the Public Health Outcomes Framework.

As part of the health reforms brought in by the Health and Social Care Act 2012, local authorities have a duty to take such steps as they consider appropriate for improving the health of the people in their area. The steps listed in legislation include:

- Providing information and advice
- Providing services or facilities designed to promote healthy living
- Providing services or facilities for the prevention, diagnosis or treatment of illness
- Providing assistance to help individuals to minimise any risks to health arising from their accommodation or environment

Making any other services or facilities available

**Financial Implications:
(Authorised by the
statutory Section 151
Officer & Chief Finance
Officer)**

The subject of the report is to set out the options to allow the short term sustainability of Active Tameside as set out in sections 5 and 6, which involves short term support for the 2021/22 financial year and the treatment of the outstanding borrowing that is owed to the Council. This takes the form of a supplementary management fee of £0.77m, the setting aside of a contingency from surplus carried forward covid grants. A provision in relation to the outstanding prudential borrowing has already been made and reported as part of the monthly budget monitoring as required under accounting regulations.

**Legal Implications:
(Authorised by the
Borough Solicitor)**

As set out in the main body of the report the intention of these proposals is to address the short term sustainability but this also needs to be considered in the context that the contract is due to expire in 2024.

The council has addressed the issue of the short term sustainability of Active Tameside from the perspective as a commissioner of the service, quasi parent company and also from the broader local authority perspective as promoter of leisure in both a health and social context.

Members need to be content that this proposal represents good value for money for the council and the residents of Tameside by reviewing the details set out in this report.

These proposals also have to be considered in the post brexit landscape of state aid. Brexit has fundamentally changed state aid with is now referred to as 'Subsidy Control' by virtue of The State Aid (Revocations and Amendments) (EU Exit) Regulations 2020 passed on 1 January 2021.

As a result of these regulations the State Aid restrictions which we have currently operated within are no longer recognised as domestic law.

However the UK remains subject to “anti-subsidy” obligations under World Trade Organisation Rules, but these have a more limited effect with regard to major subsidies, rather than the very detailed and precise regime applying before 31 December 2020.

Under the Trade and Co-operation Agreement (TCA) signed between the UK and EU, the UK Government is obliged to create a new State Aid Regime in order to prevent unlawful competition between the UK and other European Countries. This regime is currently being developed by centre government but it is anticipated that the key principles will be:

- subsidies should pursue a public policy objective
- subsidies should be proportionate in terms of what is necessary to achieve the objective
- subsidies are necessary to bring about a change in behaviour
- the beneficiary would not have funded the project otherwise
- the objective could not have been achieved through other means
- the positives of the subsidy outweigh the negative

Therefore Members need to be content that the short term proposals are compatible with these key principles. Members need to balance the cost that the Council will invest in preventing ill health compared with the cost of dealing with the effects of poor health including obesity and lack of fitness particularly in those individuals who find it difficult to access commercial venues generally owing to disabilities or other access issues.

Risk Management:

Active Tameside have risk management and business continuity plans in place. Any additional risks identified as a result of the review will be noted and action taken to mitigate these.

Background Information:

For background papers relating to this report can be inspected by contacting Debbie Watson, Assistant Director of Population Health on 0161 342 3358, or at debbie.watson@tameside.gov.uk or Tom Wilkinson, Assistant Director of Finance tom.wilkinson@tameside.gov.uk

1. INTRODUCTION

- 1.1 Executive Cabinet considered a report in February 2021 that set out the long term plans for the Council's Sport and Leisure facilities, currently provided for by Active Tameside. This included proposals to reduce the number of facilities operated by the Leisure Trust to allow the Council to reduce its annual management fee over the medium and long term.
- 1.2 That report also stated that a further report, that outlined the short term measures required to sustain facilities operated on behalf of the Council during 2021/22 financial year as the Country recovers from the pandemic.
- 1.3 The COVID-19 pandemic led to the temporary closure of all facilities across Greater Manchester. As a result of this closure, the leisure operating sector has become under threat of insolvency as income streams have effectively ceased, whilst operators continue to incur costs relating to the maintenance of the facilities during closure and the need to retain a skeleton staffing structure.
- 1.4 Under normal circumstances, external leisure providers operate with low margins and are reliant on ongoing income from customers and members to operate, with management fee payments either to or from the local authority based on the balance between income and expenditure.
- 1.5 Before COVID-19 c.£95 million or 86% of the costs of operating public leisure facilities and services across GM was recovered from trading activities, with local authorities providing £15.3 million or 14% in management fees, service grants and other commissions. In most cases within Greater Manchester, leisure providers had limited or no unrestricted cash reserves and little or no income to meet the ongoing costs of closure. As a result, leisure providers across GM have needed to seek financial support from their local authority partners to help meet retained closure costs and provide ongoing financial support during the recovery period.
- 1.6 The Council has worked together with Active Tameside, using an open book approach to mitigate the financial impact of facility closures, and maximise the benefits from the Provider's business resilience insurance, National Leisure Recovery Fund and national business rate support and furlough of staff.

2. BACKGROUND AND INTRODUCTION

- 2.1 Tameside established the Tameside Sports Trust (known as Active Tameside) in 1999, and to which it awarded a 25 year concession to operate from its Sports and Leisure facilities. Active Tameside as a registered charity, does not distribute profit and instead reinvests operating surpluses into the provision of quality leisure and culture services and facilities.
- 2.2 In addition to this, Active Tameside have also sought to invest in the facilities and equipment at the centres and have taken out a series of loans from the Council which they are repaying, with all borrowing due to be repaid by the end of the concession in March 2024. As at 31 March 2020 the outstanding borrowing was £3.557m.
- 2.3 Active Tameside, prior to the pandemic had turnover of around £11m a year and were receiving an annual management fee from the Council of £1.077m. The turnover is made up mainly from fees charged to users and services provided to vulnerable residents commissioned by the Council and Health providers. Part of this turnover is used to repay the prudential borrowing at £0.788m per annum.

- 2.4 Prior to the Pandemic and with the opening of the new Denton facility and enhancement of the pool at Active Hyde, Active Tameside were budgeting for a surplus for the first time in a number of years and negotiations were taking place around a further potential reduction in the management fee. The pandemic has had a major impact on this and with a proposed road map out of lockdown that will be gradual, 2021/22 will inevitably be focused on the stabilisation of the business and starting to build back, rebuilding its membership base to create a sound footing for the start of the 2022/23 financial year. Following financial modelling, It is unlikely that Active Tameside will fully recover to 2019/20 levels until 2022/23 at the earliest.
- 2.5 The temporary closure of large parts of the leisure portfolio during lockdown highlighted the essential role of sport and leisure to deliver physical and mental wellbeing benefits to local resident's lives, and how it uniquely brings our communities together. Every £1 spent on community sport and physical activity generates nearly £4 for the economy and society. The investment the Council makes in increasing sport and leisure opportunities creates a return across health and social care, improves wellbeing, builds stronger communities and develops skills in the economy. The Council continues to advocate for healthier populations and a reduction in health inequalities to ensure that people are as resilient as our health and social care systems must be to contain COVID-19.
- 2.6 Active Tameside has continued to deliver services throughout the pandemic showing high levels of commitment towards working collaboratively to chart a path back to recovery. Recent achievements include:
- Continuing to deliver the PE curriculum in 50 Tameside primary schools for the children of key workers and the boroughs most vulnerable children (full timetable).
 - Ongoing support for Tameside sports club and physical activity groups including the brokering of external funding totalling circa £90k.
 - Delivery of the national UK Active disability and inclusion award winning Everybody Can/SEND and vulnerable children/key worker camps supporting programme supporting 1,513 children and young people
 - Adult Day Service – 276 attendees per week
 - Live Active 993 members with long term conditions supported
 - Facilities re-purposed as vaccination and testing sites

3. FINANCIAL SUPPORT TO ACTIVE TAMESIDE DURING THE PANDEMIC

- 3.1 In March 2020 Executive Cabinet agreed to pay the 2020/21 management fee in advance on 1st April 2020 and agreed that Active Tameside could defer the repayment of the 2019/20 prudential borrowing tranche due to the pandemic, in order to support their cashflow.
- 3.2 Subsequent cashflow support has also been provided, with Executive Cabinet agreeing to an advanced cash payment of £1.445m towards services commissioned by and paid for the Council to the end of the next financial year.
- 3.3 Finally in November 2020 Executive Cabinet agreed to make available a £1.8m loan facility in lieu of an insurance claim on its business resilience policy. This has helped Active Tameside to remain cash positive. The insurance claim has been successful and the initial draw down of the Council loan of £0.5m will be repaid by the end of the financial year. Therefore Active Tameside will have not utilised any of the £1.8m loan facility agreed in 20/21.
- 3.4 The lockdown and subsequent closure of all leisure facilities to the general public for 40 of the last 52 weeks, has had an unprecedented impact on the income and operational business model of Active Tameside.

- 3.5 In addition to Council cashflow support, Active Tameside have been proactive in accessing Government support, around business rates, have furloughed the majority of their staff and, in conjunction with the Council have successfully applied for £0.55m from the National Leisure Recovery Fund that covers the last quarter of the 2020/21 financial year.
- 3.6 Active Tameside will continue to seek external support and exploit any sustainability funding and government support as it becomes available.

4. FINANCIAL OUTTURN 2020/21

- 4.1 Although the outturn for Active Tameside for 2020/21 has yet to be finalised, it is likely to post a gross trading loss of £4.1m. This is reduced by £2m furlough support, £0.2m business grant support, £2.5m of insurance and £0.55m of NLRF grant. After all this additional support is considered, Active Tameside is likely to break even for 2020/21. This underlines the collapse in revenue caused by the pandemic. The loss of revenue in 20/21 will equate to around £7m. A key component of this is the annual and monthly membership revenue. In March 2020 before Covid, Active Tameside had approximately 16,200 gym, swim and gymnastics members generating £0.305m per month income. As of 1 March 2021, the membership had dropped to 11,200 and would have resulted in a collection of £0.179m a month if a collection had been made. This equates to a drop of 30% in membership against an industry average closer to 45%.
- 4.2 Currently, Active Tameside has insurance cover through a “non-damage business interruption” clause, limited to a cap of £2.5m of which £1m has been received with a further £0.9m agreed to be paid by 10 March 2021. The Insurers, Royal Sun Alliance, believe this cap refers to the entire claim, under the principle of “aggregation”, where all the individually affected sites are aggregated into one claim. Both Active Tameside and their brokers, Marsh, (the largest insurance Broker in the World) believe this is incorrect and that each site is insured separately under this clause. Marsh have indicated to Active Tameside that there is an appetite to challenge this stance through the courts if necessary. The Supreme Court issued a detailed judgement on 15 January 2021 and this is still being reviewed in detail by lawyers. Active Tameside have been assured that nothing in their current claim will prevent them pursuing further claims at a later date. Upon renewal, Active Tameside give insurers turnover and staff costs for each site on the understanding that each site is insured as a separate entity. Should this claim be successful Active Tameside would be entitled to claim up to £2.5m loss incurred for each site for 3 years from 20 March 2020. This is likely to be the subject of further lengthy legal proceedings, but if this part of the claim is successful would negate the need for any further Council support and allow the repayment of the deferred prudential borrowing.
- 4.3 The Department for Culture Media and Sport (DCMS) announced in the autumn of last year a support package of £100m for the Sports Centre sector called the National Leisure Recovery Fund. The application procedure has recently concluded. Active Tameside were successful and have been awarded a grant of £0.55m. As part of the application procedure, a lot of focus was placed on forecasting losses for 21/22 and setting up systems to monitor usage in 21/22. The implication is that further support may be forthcoming but no announcement has yet been made

5. ESTIMATED FINANCIAL OUTLOOK TO 2023/24

- 5.1 The Council’s budget process for 2021/22, supported by a series of reports around the future options for Active Tameside, sought to set the long term direction of the Council’s sport and leisure facilities, and proposed a reduction to the core management fee of £0.15m through the permanent closure of a number of peripheral centres. This had the effect of reducing this

core management fee from £1.077m to £0.927m in 2021/22 with a further £0.15m reduction scheduled for 2022/23.

- 5.2 The contractual arrangement with Active Tameside runs through until 31 March 2024. This leaves 3 financial years covering 2021/22, 2022/23 and 2023/24, during which time there will need to be a reprocurement of the contract. The following three years are vital to Tameside Council in ensuring that there is a viable leisure offer to its residents. It is in the best interests of the Council to have a viable leisure services provider going into the procurement process to provide a competitive re-procurement process.
- 5.3 With the announcement that lockdown will start to be cautiously eased, it is expected that sport and leisure venues can start to reopen on 12 April 2021 for individuals and households, and gradually relax to allow normal operations from mid-summer.
- 5.4 The Trust (as with all Leisure providers) has missed the January and February period where the majority of membership commence or are renewed, which is crucial to boosting memberships for the year. A gradual easing of lockdown restrictions and reopening of the full facilities will therefore mean a slower recovery for most providers in the market.
- 5.5 Active Tameside have modelled the following 3 financial years, assuming an unwinding of lockdown as planned, and the budgeted reductions in the core management fee as outlined in paragraph 5.1. This is illustrated in Table 1.

Table 1 – Estimated Trading Position 2021/22 to 2023/23

	2021/22	2022/23	2023/24
	£000	£000	£000
Estimated Trading Deficit	-3,317	-797	-510
<u>Supported by:</u>			
Cash Reserve	770		
Insurance	850		
Core Management Fee	927	777	777
Supplementary (Covid) Management Fee*	770	20	0
Balance	0	0	267
Contingency	500	250	0

* repayable if the financial position improves

- 5.6 The estimated trading deficit is before any management fee and assumes that there are no prudential borrowing repayments made.
- 5.7 The 2021/22 financial year is expected to see a slow return to health, but result in a trading deficit of £3.317m (compared to the gross trading deficit for 2020/21 of £4.1m.), largely because of a reduction the level of furlough support and other government support.
- 5.8 The success of the insurance claim means that an estimated cash surplus of £0.77m can be brought forward into 2021/22, with a further insurance payment of £0.85m, the agreed core management fee is £0.927m, which will mean that further support of £0.77m will be required to balance the budget and a further £0.02m in 2022/23.

- 5.9 It is proposed that this shortfall is funded through a supplementary management fee that is drawn down on an open book basis, if and when the cash is required by Active Tameside, and is repayable if additional external financial support is received and/or there are further insurance pay outs as a result of the challenge to the “aggregation” aspect of the policy. It is also suggested that the Council make available a contingency loan sum of £0.5m in 2021/22. The contingency sum suggested for 2022/23 will be reviewed as part of the 2022/23 budget setting process..

6. OUTSTANDING PRUDENTIAL BORROWING

- 6.1 Since the start of the concession, Active Tameside have sought to invest in the facilities it operates, and the Council has supported over £7.5m of investment by way of lending the funds to Active Tameside, which were to be repaid over the remainder of the contract period. All borrowing was due to be repaid by 2024/25.
- 6.2 The financial assumptions outlined in Table 1 are predicated on there being no repayment of the outstanding prudential borrowing amounts. The outstanding level of borrowing as at 31st March 2020 was £3.557m. To date Executive Cabinet have agreed the deferral of the March 2020 and the March 2021 repayments, totalling £1.576m. The Council has calculated the loss of interest, which should be added to the loan which takes the outstanding balance to £3.676m.
- 6.3 As outlined above, Active Tameside are still to settle the insurance claim and are disputing the “aggregation” approach that the insurers are currently willing to settle on. If Active Tameside win their claim then they should be in the position to settle the remaining outstanding borrowing. However, if the claim is not settled per facility, it is clear that under the current circumstances, caused by the pandemic, that Active Tameside would be unlikely to be able to repay the outstanding borrowing owed to the Council. If this arises the Council will therefore have to consider options to recover the debt, which could include writing it off. Therefore, under accounting regulations, at the current time the Council is compelled to make a provision for the non-repayment of this outstanding debt. This has already been reported as part of the ongoing budget monitoring reports received by Executive Cabinet. It is proposed that the provision remains until the outcome of the insurance claim is known. Any decision to write off the debt will be subject to separate governance once the outcome of the insurance claim is known.
- 6.4 The lease of the sport and leisure facilities operated by Active Tameside is co-terminus with the contract and will also come to an end in March 2024, meaning that the Council assets leased to Active Tameside will revert back to Council control. The improvements made in relation to the refurbishments paid for by the Trust are currently owned by the Trust. Any assets currently owned by the Trust or purchased by the Trust before the end of contract will need to be considered at contract end as part of the procurement process.

7. CONCLUSION

- 7.1 Active Tameside, like all sport and leisure providers has been hit hard by the pandemic. A robust insurance policy and government support has enabled losses to be limited, but the recovery is likely to be slow.
- 7.2 It is in the interests of the Council to retain its leisure offer for its community, as it recovers from the health pandemic, so that appropriate facilities are in place to enable and encourage its residents to become healthier. The Council wishes Active Tameside to reopen the majority of its facilities as soon as permitted to do so to encourage inclusion and participation – our unique model of sport and leisure commissioning – focused around community

wellness. Given the drop of membership it acknowledges that support will be required through a supplementary management fee to enable this to happen.

8. RECOMMENDATIONS

- 8.1 As set out at the front of the report.